

Remarks / Arguments

Claims 1-12 and 14-17 are pending in this application. Claim 13 has been canceled. Claims 1-12 and 14-17 have been amended. No new matter has been added.

This application was originally filed with the original claims of the parent application, with the intention of filing a later preliminary amendment to take account of the restriction requirement which was imposed in the parent application. The first official action issued before the planned preliminary amendment could be filed.

The claims have now been amended to refer to the subject matter of restriction group III of parent application serial no. 09/943,325 (now US patent 6,649,616), in which the examiner established that in formula (I) the unit "D" should be phenyl, "A" should be NR⁵, and the compounds should not contain heterocycles.

Priority

The specification has now been amended to refer to the parent application, which claims the priority of German application 100 44 792.9.

Double Patenting

As indicated above, the claims have now been amended to recite the subject matter of restriction group III of the parent application. There should be no longer be any double patenting issue.

Rejection under §101

In the official action, claims 16 and 17 were rejected under §101. These claims originally recited "use" of the compounds of formula (I) for preparing medicaments, but have now been converted into method of use claims of the form which were allowed in the parent case.

Rejection under §112, second paragraph

Claims 1-15 were rejected as being indefinite. Claim 13 has been canceled, and the examiner's suggested revisions have been made in the remaining claims.

Rejection under §112, first paragraph

Claims 12 and 13 were rejected on grounds that one skilled in the art would not know how to use the claimed invention. Claim 13 has been canceled. Claim 12 (and also claim 11) recites compounds which are intermediates in the preparation of the claimed compounds, and this would be recognized by the skilled in the art from a reading of the instant specification.

Claims 16 and 17 were rejected as lacking adequate enablement. The examiner has stated that claim 16 would be considered for allowance if represented as in the parent case. These claims have now been revised into method of treatment claims of the form which were allowed in the parent application, as suggested by the examiner. Claim 17 should be patentable as a dependent claim which refers to patentable independent claim 16.

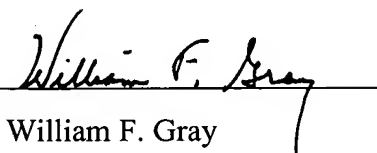
In view of the above amendments and arguments, this application is deemed to be in condition for allowance, and allowance is accordingly requested.

Respectfully submitted,

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